

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32063 of 2022

Arising Out of PS. Case No.-49 Year-2022 Thana- SONBERSA District- Sitamarhi

Sushil Mandal Son of Late Harichan Mandal @ Harichandra Mandal Resident
of Village - Rohua, Police Station - Sonbarsa, District - Sitamarhi.

... .. Petitioner

Versus

1. The State of Bihar
2. Guriya Kumari Daughter of Sanjeet Thakur Resident of Village - Chilra,
Police Station - Sonbarsa, District - Sitamarhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs.Nivedita Nirvikar, Snr. Advocate.

: Dr. Arun Lata Sharma, Advocate.

For the Opposite Party/s : Mr.Mohammed Arif, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 30-08-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Mrs. Nivedita Nirvikar, learned senior counsel for the

petitioner and Mr. Mohammed Arif, learned APP for the State are

present.

Petitioner seeks regular bail in connection with

Sonbarsa P.S. case no. 49 of 2022 registered for the offences

punishable under Section 376 (DA) of the Indian Penal Code and

sections 4, 6 of the POCSO Act.

As per the allegation, at the time of alleged occurrence

the victim was in a field where she went to cut grass and then the

present petitioner and co-accused Chhavila Mandal arrived there



and started teasing the victim and thereafter both forcefully established physical relationship with the victim and also threatened the victim to kill her if the incident is revealed by her.

The main submissions advanced by Mrs. Nivedita Nirvikar, learned senior counsel for the petitioner are that the informant who is stated to be the victim of this case, herself revealed her age 17 years in the FIR, as per the allegation the alleged incident of rape was committed on 14.2.2022 but the FIR was lodged on 17.2.2022, in the medical examination of the victim the doctor concerned did not give any opinion with regard to the commission of rape of the victim and the victim's age was assessed by him between 17-18 years and other findings mentioned in the report are also not corroborating to the allegation of rape. Further submission is that in fact at the time of alleged occurrence the victim was found in the compromising position with one named Aakash with whom the victim was having love affair and the present petitioner and the co-accused saw them in that position and thereafter the instant case has been lodged with a false allegation. Further submission is that the petitioner has been chargesheeted and has a clean antecedent and in the present time he is facing trial.

Mr. Mohammed Arif, learned APP has opposed the prayer for bail.



Heard both the sides and perused the FIR, and victim's medical examination report filed by the petitioner as annexure-2. The FIR of the alleged occurrence was lodged after three days of the alleged occurrence regarding this delay no explanation has been mentioned in the FIR and findings given in the medical examination report of the victim also does not support the allegation of forceful sexual relationship with the victim by the petitioner who is facing trial in the present time which is at initial stage and as per paragraph no. 3 he has got no criminal antecedent. Considering these facts as well as above submissions, in the opinion of this Court, the petitioner deserves to a lenient approach, let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Sonbarsa P.S. case No. 49 of 2022 on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move



for cancellation of bail.

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(4) The Court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioner is found then the Court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J)

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